

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Mid-Atlantic CATV Limited Partnership)	
)	CUID No. MD0355 (Howard County)
Petition for reconsideration)	

ORDER ON RECONSIDERATION

Adopted: March 14, 2002

Released: March 20, 2002

By the Deputy Chief, Cable Services Bureau:

1. In this Order we consider a petition for reconsideration ("Petition") of our Order, DA 94-1147 ("Prior Order")¹ filed with the Federal Communications Commission ("Commission") by the local franchising authority ("LFA") for the above-referenced community. Our Prior Order found Operator's cable programming service tier ("CPST") rates to be reasonable based on our review of Operator cost of service FCC Form 1220 filing. In this Order we dismiss the LFA's Petition.

2. Under the Communications Act,² the Commission is authorized to review the CPST rates of cable systems not subject to effective competition to ensure that rates charged are not unreasonable. If the Commission finds a rate to be unreasonable, it shall determine the correct rate and any refund liability.³ The Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"),⁴ in effect at the time the referenced complaints were filed, required the Commission to review CPST rates upon the filing of a valid complaint by a subscriber or LFA.

3. Cable operators may justify their rates through a cost of service showing using FCC Form 1220.⁵ In reviewing an operator's FCC Form 1220 cost of service showing, we evaluate the operator's rate base and expense elements to determine whether the operator should be permitted to recover those items. Where a certain rate base or expense element is not justified under our rules, such cost is disallowed in whole or in part.⁶ Where reported costs are disallowed, we make appropriate adjustments.

¹ In the Matter of Mid-Atlantic CATV Limited Partnership, DA 94-1147, 9 FCC Rcd 7204 (1994).

² Communications Act, Section 623(c), as amended, 47 U.S.C. §543(c) (1996).

³ See Section 76.957 of the Commission's Rules, 47 C.F.R. §76.957.

⁴ Pub. L. No. 102-385, 106 Stat. 1460 (1992).

⁵ See Section 76.922(l) of the Commission's Rules, 47 C.F.R. §76.922(l). See also, Second Report and Order, First Order on Reconsideration, and Further Notice of Proposed Rulemaking, MM Docket No. 93-215 and CS Docket No. 94-28, FCC 95-502, 11 FCC Rcd 2220 (1996) ("Final Cost Order").

⁶ The Commission made clear that the fact that an operator has incurred costs does not necessarily establish its right to recover those costs from subscribers. See Implementation of Sections of the Cable Television Consumer (continued....)

4. In our Prior Order, we reviewed Operator's cost of service filing, applied general cost of service principles and applicable allocation rules and found that Operator justified its CPST rate for the period under review. In its Petition, the LFA alleges that Operator may have violated the Commission's Rate Freeze Order.⁷ The LFA requests that the Commission inquire into this possibility. In its Opposition, Operator responds that under the Commission's rules, the LFA is prohibited from raising new issues on appeal.⁸ We agree. The referenced complaints did not raise, and we did not address in our Prior Order, the possibility of a violation of the Rate Freeze Order. In its Petition, the LFA does not raise any issues concerning our review of Operator's FCC Form 1220 and our conclusion that Operator's CPST rates were reasonable, based on that review. Therefore, we will dismiss the LFA's Petition.

5. Accordingly, IT IS ORDERED, pursuant to Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106 that the local franchising authority's petition for reconsideration IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

William H. Johnson
Deputy Chief
Cable Services Bureau

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Protection and Competition Act of 1992: Rate Regulation, MM Docket No. 92-266, Report and Order and Further Notice of Proposed Rulemaking, 8 FCC Rcd 5631, 5794 at n. 619 (1993) ("Rate Order").

⁷ Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, MM Docket 92-266, 8 FCC Rcd 2921 (1993).

⁸ See Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106.